

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 12-630V

Filed: March 6, 2017

UNPUBLISHED

BAILEY DAY

*

Case No. 12-630 V

*

Petitioner,

*

*

v.

*

Chief Special Master Dorsey

*

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Damages Award; Neuromyelitis

*

Optica ("NMO"); Human Papilloma

*

Virus ("HPV") Vaccine; Proffer.

*

Respondent.

Anne Carrion Toale, Maglio, Christopher & Toale, Sarasota, FL, for petitioner.

Gordon Elliot Shemin, U.S. Department of Justice, Washington, D.C., for respondent.

DECISION AWARDING DAMAGES¹

On September 24, 2012, Laura Day filed a petition for compensation under the National Vaccine Injury Compensation Program ("the Program"),² as the legal representative of her then-minor daughter, Bailey Day, in which she alleged that the Gardasil ("HPV") and FluMist ("influenza") vaccinations Bailey received on September 28, 2011, caused her to develop multiple sclerosis ("MS"). Petition at 3, ¶11. After the filing of the petition, it was discovered that Bailey actually suffers from a rare autoimmune disorder known as neuromyelitis optica ("NMO") or Devic's Syndrome, rather than MS. See Petitioner's ("Pet'r's") Exhibit ("Ex.") 6 at 13.

On November 13, 2015, the undersigned issued a decision finding that petitioner was entitled to compensation. During the time in which this case was being adjudicated, Bailey Day

¹ Because this decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa.

turned 18 years old and was made the petitioner in her case. On May 31, 2016, the undersigned awarded Bailey interim damages for past pain and suffering in the amount of \$250,000.00.³

On March 3, 2017, respondent filed a Proffer on Award of Compensation (“Proffer”). In the Proffer, respondent represented that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards petitioner:

- (1) A lump sum payment of \$1,283,828.14, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$305,186.22), lost earnings (\$968,386.45), and past unreimbursable expenses (\$10,255.47), in the form of a check made payable to petitioner, Bailey Day.**
- (2) A lump sum payment in the amount of \$7,584.74, representing compensation for satisfaction of the State of Indiana Medicaid lien, in the form of a check made payable to petitioner, Bailey Day and**

**Anthem BCBS, Inc.
Attn: Anel Mendez
21555 Oxnard Street
Mail Drop AC-10C
Woodland Hills, CA 91367
Tax ID No. 35-0781558
Policy No: IN0726491**

- (3) An amount sufficient to purchase the annuity contract described in section II.C. of the Proffer.**

Proffer at 5.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.⁴

³ Respondent filed a motion for review of this decision on June 30, 2016, and the decision was affirmed by Judge Wolski on December 7, 2017. The final judgment awarding interim damages was entered on January 18, 2017. Because petitioner has already received the maximum amount of pain and suffering damages permitted by the statute, pain and suffering damages are not awarded in this decision.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

Respondent.

No. 12-630V
Chief Special Master Dorsey
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

A. Life Care Items

Respondent engaged life care planner Linda Curtis, RN, MS, CCM, CNLP, and petitioner engaged Tresa Johnson, RN, BSN, CLCP, to provide an estimation of Bailey Day’s future vaccine-injury related needs. For the purposes of this proffer, the term “vaccine related” is as described in the Chief Special Master’s Ruling on Entitlement, filed November 13, 2015. All items of compensation identified in the life care plan are supported by the evidence, and are illustrated by the chart entitled Appendix A: Items of Compensation for Bailey Day, attached hereto as Tab A.¹ Respondent proffers that Bailey Day should be awarded all items of compensation set forth in the life care plan and illustrated by the chart attached at Tab A. Petitioner agrees.

¹ The chart at Tab A illustrates the annual benefits provided by the life care plan. The annual benefit years run from the date of judgment up to the first anniversary of the date of judgment, and every year thereafter up to the anniversary of the date of judgment.

B. Lost Earnings

The parties agree that based upon the evidence of record, Bailey Day has suffered past loss of earnings and will suffer a loss of earnings in the future. Therefore, respondent proffers that Bailey Day should be awarded lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B). Respondent proffers that the appropriate award for Bailey Day's lost earnings is \$968,386.45. Petitioner agrees.

C. Pain and Suffering

On May 31, 2016, the Chief Special Master issued a decision awarding compensation on an interim basis, awarding pain and suffering in the amount of \$250,000.00. An amended judgment for this component of damages entered on January 18, 2017. This item of compensation has been paid. Therefore, respondent proffers that petitioner is not entitled to any additional compensation for pain and suffering under 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents her expenditure of past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$10,255.47. Petitioner agrees.

E. Medicaid Lien

Respondent proffers that Bailey Day should be awarded funds to satisfy a State of Indiana lien in the amount of \$7,584.74, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Indiana may have against any individual as a result of any Medicaid payments the State of Indiana has made to or on behalf of Bailey Day from the date of her eligibility for benefits through the date of judgment in this case

as a result of her vaccine-related injury suffered on or about October 1, 2011, under Title XIX of the Social Security Act.

II. Form of the Award

The parties recommend that the compensation provided to Bailey Day should be made through a combination of lump sum payments and future annuity payments as described below, and request that the Chief Special Master's decision and the Court's judgment award the following:²

A. A lump sum payment of \$1,283,828.14, representing compensation for life care expenses expected to be incurred during the first year after judgment (\$305,186.22), lost earnings (\$968,386.45), and past unreimbursable expenses (\$10,255.47), in the form of a check payable to petitioner, Bailey Day.

B. A lump sum payment of \$7,584.74, representing compensation for satisfaction of the State of Indiana Medicaid lien, payable jointly to petitioner and

Anthem BCBS, Inc.
Attn: Anel Mendez
21555 Oxnard Street
Mail Drop AC-10C
Woodland Hills, CA 91367
Tax ID No. 35-0781558
Policy No: IN0726491

Petitioner agrees to endorse this payment to the State.

C. An amount sufficient to purchase an annuity contract,³ subject to the conditions described below, that will provide payments for the life care items contained in the life care plan,

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

³ In respondent's discretion, respondent may purchase one or more annuity contracts from one or more life insurance companies.

as illustrated by the chart at Tab A, attached hereto, paid to the life insurance company⁴ from which the annuity will be purchased.⁵ Compensation for Year Two (beginning on the first anniversary of the date of judgment) and all subsequent years shall be provided through respondent's purchase of an annuity, which annuity shall make payments directly to petitioner, Bailey Day, only so long as Bailey Day is alive at the time a particular payment is due. At the Secretary's sole discretion, the periodic payments may be provided to petitioner in monthly, quarterly, annual or other installments. The "annual amounts" set forth in the chart at Tab A describe only the total yearly sum to be paid to petitioner and do not require that the payment be made in one annual installment.

1. Growth Rate

Respondent proffers that a four percent (4%) growth rate should be applied to all non-medical life care items, and a five percent (5%) growth rate should be applied to all medical life care items. Thus, the benefits illustrated in the chart at Tab A that are to be paid through annuity payments should grow as follows: four percent (4%) compounded annually from the date of judgment for non-medical items, and five percent (5%) compounded annually from the date of judgment for medical items. Petitioner agrees.

⁴ The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

⁵ Petitioner authorizes the disclosure of certain documents filed by the petitioner in this case consistent with the Privacy Act and the routine uses described in the National Vaccine Injury Compensation Program System of Records, No. 09-15-0056.

2. Life-contingent annuity

Petitioner will continue to receive the annuity payments from the Life Insurance Company only so long as she, Bailey Day, is alive at the time that a particular payment is due. Written notice shall be provided to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Bailey Day's death.

3. Guardianship

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

III. Summary of Recommended Payments Following Judgment

- | | | |
|----|--|-----------------------|
| A. | Lump Sum paid to petitioner, Bailey Day: | \$1,283,828.14 |
| B. | Medicaid Lien: | \$7,584.74 |
| C. | An amount sufficient to purchase the annuity contract described above in section II.C. | |

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch, Civil Division

/s/ Gordon E. Shemin
GORDON E. SHEMIN
Trial Attorney
Torts Branch, Civil Division
U. S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146
Phone: (202) 616-4208
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Dated: March 3, 2017

Appendix A: Items of Compensation for Bailey Day

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ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1	Compensation Years 2-4	Compensation Years 5-7	Compensation Year 8	Compensation Years 9-10	Compensation Year 11	Compensation Years 12-14	Compensation Year 15
				2017	2018-2020	2021-2023	2024	2025-2026	2027	2028-2030	2031
BCBS Premium	5%		M	1,820.00	1,820.00	1,820.00					
BCBS MOP & Deductible	5%			4,000.00	4,000.00	4,000.00					
BCBS Bronze Premium	5%		M				3,887.04	3,887.04	3,887.04	3,887.04	3,887.04
BCBS Bronze MOP	5%						7,150.00	7,150.00	7,150.00	7,150.00	7,150.00
Medicare Adv Premium	5%		M								
Medicare Adv MOP	5%										
Medicare Part D	5%		M								
Medicare Part B Premium	5%		M								
Medicare Part B Deductible	5%										
Medigap G	5%		M								
Neurologist	5%	*									
Mileage: Neurologist	4%			31.96	31.96	31.96	31.96	31.96	31.96	31.96	31.96
Rituximab Infusion	5%	*									
Lab Testing	5%	*									
Lab Work	5%	*									
MRI	5%	*									
Dexa Bone Scan	5%	*									
PCP	5%	*									
Urinalysis	5%	*									
Physical Medicine & Rehab	5%	*									
Mileage: PM&R	4%			23.97	23.97	23.97	23.97	23.97	23.97	23.97	23.97
Urologist	5%	*									
Mileage: Urologist	4%			30.94	30.94	30.94	30.94	30.94	30.94	30.94	30.94
Ultrasound of Bladder	5%	*									
Urodynamic Study	5%	*									
Plastic Surgeon	5%	*									
Mileage: Plastic Surgeon	4%			6.29	6.29	6.29	6.29	6.29	6.29	6.29	6.29
Neurologist - Mayo Clinic	5%	*									
Airfare to Mayo Clinic	4%			1,463.20	1,463.20	1,463.20					
Hotel to Mayo Clinic	4%			599.37	599.37	599.37					
Rental Car Mayo Clinic	4%			212.73	212.73	212.73					

Appendix A: Items of Compensation for Bailey Day

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Appendix A: Items of Compensation for Bailey Day

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ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1	Compensation Years 2-4	Compensation Years 5-7	Compensation Year 8	Compensation Years 9-10	Compensation Year 11	Compensation Years 12-14	Compensation Year 15
				2017	2018-2020	2021-2023	2024	2025-2026	2027	2028-2030	2031
Hoyer Lift	4%			1,099.00					1,099.00		
Hoyer Slings	4%			180.00	180.00	180.00	180.00	180.00	180.00	180.00	180.00
Walker	4%			168.82			168.82				168.82
Exercise Platform	4%			444.77							
Balance Ball	4%			7.66					7.66		
Bosu	4%			109.00					109.00		
Resistance Bands	4%			24.99	8.33	8.33	8.33	8.33	8.33	8.33	8.33
Free Weights	4%			50.26							
Ankle Weights	4%			45.00							
Diapers	4%		M	1,048.23	1,048.23	1,048.23	1,048.23	1,048.23	1,048.23	1,048.23	1,048.23
Wipes	4%		M	247.66	247.66	247.66	247.66	247.66	247.66	247.66	247.66
Gloves	4%		M	130.96	130.96	130.96	130.96	130.96	130.96	130.96	130.96
Sheet Protector	4%			41.58	41.58	41.58	41.58	41.58	41.58	41.58	41.58
Disp Underpads	4%			238.13	238.13	238.13	238.13	238.13	238.13	238.13	238.13
Reusable Underpads	4%			155.88	155.88	155.88	155.88	155.88	155.88	155.88	155.88
Antibacterial Gel	4%			95.40	95.40	95.40	95.40	95.40	95.40	95.40	95.40
AFOs	4%	*									
Hand/ Wrist Splints	4%	*									
Reacher	4%			32.29	5.38	5.38	5.38	5.38	5.38	5.38	5.38
Allowance for Aids	4%			150.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Power WC	4%	*									
Power WC Maint	4%	*									
Cushion	4%	*									
Cushion Cover	4%			60.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Manual WC	4%			1,747.50			1,747.50				1,747.50
Manual WC Maint	4%			59.91	59.91	59.91	59.91	59.91	59.91	59.91	59.91
Cushion	4%			84.00	42.00	42.00	42.00	42.00	42.00	42.00	42.00
Cushion Cover	4%			60.00	30.00	30.00	30.00	30.00	30.00	30.00	30.00
WC Pack	4%			24.00	12.00	12.00	12.00	12.00	12.00	12.00	12.00
Ramp	4%			115.99					115.99		
Case Mngt	4%		M	3,960.00	3,960.00	2,970.00	2,970.00	2,970.00	2,970.00	2,970.00	2,970.00

Appendix A: Items of Compensation for Bailey Day

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ITEMS OF COMPENSATION	G.R.	*	M	Lump Sum Compensation Year 1	Compensation Years 2-4	Compensation Years 5-7	Compensation Year 8	Compensation Years 9-10	Compensation Year 11	Compensation Years 12-14	Compensation Year 15
				2017	2018-2020	2021-2023	2024	2025-2026	2027	2028-2030	2031
Counseling	4%	*									
Home Mods	4%			77,307.00							
Modified Van	4%			63,826.35			51,010.08				51,010.08
Ancillary Services: Housekeeping	4%		M	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00
Ancillary Services: Lawn Care	4%			392.40	392.40	392.40	392.40	392.40	392.40	392.40	392.40
Ancillary Services: Heavy Lawn Care	4%			488.32	488.32	488.32	488.32	488.32	488.32	488.32	488.32
Ancillary Services: Snow Removal	4%			289.87	289.87	289.87	289.87	289.87	289.87	289.87	289.87
Non-Skilled Care	4%		M	113,880.00	113,880.00	113,880.00	113,880.00	113,880.00	113,880.00	113,880.00	113,880.00
Lost Earnings				968,386.45							
Past Unreimbursable Expenses				10,255.47							
Medicaid Lien				7,584.74							
Annual Totals				1,291,412.88	134,507.30	133,517.30	188,461.44	135,535.04	138,366.69	135,535.04	188,461.44

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for Yr 1 life care expenses (\$305,186.22), lost earnings (\$968,386.45), and past unreimbursable expenses (\$10,255.47): \$1,283,828.14.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Anthem BCBS, Inc., as reimbursement for a State of Indiana Medicaid lien: \$7,584.74.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated above in column G.R., compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in twelve monthly installments totaling the annual amount indicated.

Appendix A: Items of Compensation for Bailey Day

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Appendix A: Items of Compensation for Bailey Day

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Appendix A: Items of Compensation for Bailey Day

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Appendix A: Items of Compensation for Bailey Day

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 16	Compensation Year 17	Compensation Years 18-20	Compensation Year 21	Compensation Year 22	Compensation Years 23-26	Compensation Year 27	Compensation Years 28-29
				2032	2033	2034-2036	2037	2038	2039-2042	2043	2044-2045
Counseling	4%	*									
Home Mods	4%										
Modified Van	4%							51,010.08	5,101.01	5,101.01	5,101.01
Ancillary Services: Housekeeping	4%		M	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00
Ancillary Services: Lawn Care	4%			392.40	392.40	392.40	392.40	392.40	392.40	392.40	392.40
Ancillary Services: Heavy Lawn Care	4%			488.32	488.32	488.32	488.32	488.32	488.32	488.32	488.32
Ancillary Services: Snow Removal	4%			289.87	289.87	289.87	289.87	289.87	289.87	289.87	289.87
Non-Skilled Care	4%		M	113,880.00	113,880.00	142,350.00	142,350.00	142,350.00	142,350.00	170,820.00	170,820.00
Lost Earnings											
Past Unreimbursable Expenses											
Medicaid Lien											
Annual Totals				135,979.81	135,535.04	164,005.04	166,836.69	217,214.61	169,662.98	198,132.98	197,699.06

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for Yr 1 life care expenses (\$305,186.22), lost earnings (\$968,386.45), and past unreimbursable expenses (\$10,255.47): \$1,283,828.14.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Anthem BCBS, Inc., as reimbursement for a State of Indiana Medicaid lien: \$7,584.74.

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Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in twelve monthly installments totaling the annual amount indicated.

Appendix A: Items of Compensation for Bailey Day

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 30	Compensation Year 31	Compensation Years 32-46	Compensation Years 47-54	Compensation Years 55-Life
				2046	2047	2048-2062	2063-2070	2071-Life
BCBS Premium	5%		M					
BCBS MOP & Deductible	5%							
BCBS Bronze Premium	5%		M					
BCBS Bronze MOP	5%							
Medicare Adv Premium	5%		M	1,044.00	1,044.00	1,044.00		
Medicare Adv MOP	5%			6,700.00	6,700.00	6,700.00		
Medicare Part D	5%		M	1,068.12	1,068.12	1,068.12	554.64	554.64
Medicare Part B Premium	5%		M	1,608.00	1,608.00	1,608.00	1,608.00	1,608.00
Medicare Part B Deductible	5%			183.00	183.00	183.00	183.00	183.00
Medigap G	5%		M				1,418.88	1,418.88
Neurologist	5%	*						
Mileage: Neurologist	4%			31.96	31.96	31.96	31.96	31.96
Rituximab Infusion	5%	*						
Lab Testing	5%	*						
Lab Work	5%	*						
MRI	5%	*						
Dexa Bone Scan	5%	*						
PCP	5%	*						
Urinalysis	5%	*						
Physical Medicine & Rehab	5%	*						
Mileage: PM&R	4%			23.97	23.97	23.97	23.97	23.97
Urologist	5%	*						
Mileage: Urologist	4%			30.94	30.94	30.94	30.94	30.94
Ultrasound of Bladder	5%	*						
Urodynamic Study	5%	*						
Plastic Surgeon	5%	*						
Mileage: Plastic Surgeon	4%			6.29	6.29	6.29	6.29	6.29
Neurologist - Mayo Clinic	5%	*						
Airfare to Mayo Clinic	4%							
Hotel to Mayo Clinic	4%							
Rental Car Mayo Clinic	4%							

Appendix A: Items of Compensation for Bailey Day

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 30	Compensation Year 31	Compensation Years 32-46	Compensation Years 47-54	Compensation Years 55-Life
				2046	2047	2048-2062	2063-2070	2071-Life
Parking Mayo Clinic	4%							
Meals Mayo Clinic	4%							
Neuro-ophthalmologist	5%							
Mileage: Neuro-ophthal	4%			15.98	15.98	15.98	15.98	15.98
Visual Field Exam	5%	*						
Optic Nerve Imaging	5%	*						
Ophthalmologist	5%	*						
Mileage: Ophthalmologist	4%			6.29	6.29	6.29	6.29	6.29
Glasses	4%			150.00	150.00	150.00	150.00	150.00
Inpatient Rehab	4%	*						
Panniculectomy	0%							
Mastopexy	0%							
Brachioplasty	0%							
PT Eval	4%	*						
PT/ Aqua Therapy	4%	*		70.00	23.33	23.33	23.33	23.33
OT Eval	4%	*						
OT	4%			395.00	131.67	131.67	131.67	131.67
Gabapentin	5%	*	M					
Carbamazepine	5%	*	M					
Tamsulosin	5%	*	M					
Amitriptyline	5%	*	M					
Prednisone	5%	*	M					
Ondansteron	5%	*	M					
Biotin	4%			60.80	60.80	60.80	60.80	60.80
Vit D3	4%			30.39	30.39	30.39	30.39	30.39
B12	4%			38.29	38.29	38.29	38.29	38.29
Tylenol	4%			26.97	26.97	26.97	26.97	26.97
Omeprazole	4%			197.91	197.91	197.91	197.91	197.91
Calcium	4%			17.37	17.37	17.37	17.37	17.37
Adj Bed	4%			150.00	150.00	150.00	150.00	150.00
Mattress Cover	4%			20.79	20.79	20.79	20.79	20.79

Appendix A: Items of Compensation for Bailey Day

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ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 30	Compensation Year 31	Compensation Years 32-46	Compensation Years 47-54	Compensation Years 55-Life
				2046	2047	2048-2062	2063-2070	2071-Life
Hoyer Lift	4%			109.90	109.90	109.90	109.90	109.90
Hoyer Slings	4%			180.00	180.00	180.00	180.00	180.00
Walker	4%			24.12	24.12	24.12	24.12	24.12
Exercise Platform	4%				444.77	29.65	29.65	29.65
Balance Ball	4%			0.77	0.77	0.77	0.77	0.77
Bosu	4%			10.90	10.90	10.90	10.90	10.90
Resistance Bands	4%			8.33	8.33	8.33	8.33	8.33
Free Weights	4%							
Ankle Weights	4%							
Diapers	4%		M	1,048.23	1,048.23	1,048.23	1,048.23	1,048.23
Wipes	4%		M	247.66	247.66	247.66	247.66	247.66
Gloves	4%		M	130.96	130.96	130.96	130.96	130.96
Sheet Protector	4%			41.58	41.58	41.58	41.58	41.58
Disp Underpads	4%			238.13	238.13	238.13	238.13	238.13
Reusable Underpads	4%			155.88	155.88	155.88	155.88	155.88
Antibacterial Gel	4%			95.40	95.40	95.40	95.40	95.40
AFOs	4%	*						
Hand/ Wrist Splints	4%	*						
Reacher	4%			5.38	5.38	5.38	5.38	5.38
Allowance for Aids	4%			50.00	50.00	50.00		
Power WC	4%	*						
Power WC Maint	4%	*						
Cushion	4%	*						
Cushion Cover	4%			30.00	30.00	30.00	30.00	30.00
Manual WC	4%			249.64	249.64	249.64	249.64	249.64
Manual WC Maint	4%			59.91	59.91	59.91	59.91	59.91
Cushion	4%			42.00	42.00	42.00	42.00	42.00
Cushion Cover	4%			30.00	30.00	30.00	30.00	30.00
WC Pack	4%			12.00	12.00	12.00	12.00	12.00
Ramp	4%			11.60	11.60	11.60	11.60	11.60
Case Mngt	4%		M	2,970.00	2,970.00	2,970.00	2,970.00	2,970.00

Appendix A: Items of Compensation for Bailey Day

ITEMS OF COMPENSATION	G.R.	*	M	Compensation Year 30	Compensation Year 31	Compensation Years 32-46	Compensation Years 47-54	Compensation Years 55-Life
				2046	2047	2048-2062	2063-2070	2071-Life
Counseling	4%	*						
Home Mods	4%							
Modified Van	4%			5,101.01	5,101.01	5,101.01	5,101.01	5,101.01
Ancillary Services: Housekeeping	4%		M	3,444.00	3,444.00	3,444.00	3,444.00	3,444.00
Ancillary Services: Lawn Care	4%			392.40	392.40	392.40	392.40	
Ancillary Services: Heavy Lawn Care	4%			488.32	488.32	488.32	488.32	
Ancillary Services: Snow Removal	4%			289.87	289.87	289.87	289.87	
Non-Skilled Care	4%		M	170,820.00	170,820.00	170,820.00	170,820.00	170,820.00
Lost Earnings								
Past Unreimbursable Expenses								
Medicaid Lien								
Annual Totals				198,164.06	198,298.83	197,883.71	190,995.11	189,824.52

Note: Compensation Year 1 consists of the 12 month period following the date of judgment.

Compensation Year 2 consists of the 12 month period commencing on the first anniversary of the date of judgment.

As soon as practicable after entry of judgment, respondent shall make the following payment to petitioner for Yr 1 life care expenses (\$305,186.22), lost earnings (\$968,386.45), and past unreimbursable expenses (\$10,255.47): \$1,283,828.14.

As soon as practicable after entry of judgment, respondent shall make the following payment jointly to petitioner and Anthem BCBS, Inc., as reimbursement for a State of Indiana Medicaid lien: \$7,584.74.

Annual amounts payable through an annuity for future Compensation Years follow the anniversary of the date of judgment.

Annual amounts shall increase at the rates indicated above in column G.R., compounded annually from the date of judgment.

Items denoted with an asterisk (*) covered by health insurance and/or Medicare.

Items denoted with an "M" payable in twelve monthly installments totaling the annual amount indicated.